

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Maurice Demond Lowery, #172345)	C.A. No. 2:06-509
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
Willie Davis, Lt.; Pat Brown (Sgt.);)	
Willie Eagleton (Warden); Wallace)	
Martin (Lt.); and Mr. Kelly (Officer),)	
)	
Defendants.)	
)	

The instant action was filed by *pro se* Plaintiff Maurice Demond Lowery (“Lowery”) on February 27, 2006. (Doc. #1). On March 7, 2006, Lowery filed the pending motion to dismiss without prejudice. (Doc. #5). On March 21, 2006, Magistrate Judge Robert S. Carr, to whom this matter had been previously assigned, issued a Report and Recommendation (“the Report”) in this case recommending that “the District Court partially grant Plaintiff’s motion and dismiss the complaint in this case without prejudice” but “not issue any order as requested by the Plaintiff directing Evans Correctional Institute to do anything outside the routine procedure established for the SCDC administrative remedy process relative to Plaintiff’s current desire to institute a Step 2 grievance.” (Doc. #7). On March 28, 2006, the Plaintiff timely filed objections to the Report. (Doc. #8).¹ This matter is now before the Court for review of the Report issued by the Magistrate Judge.

¹Lowery’s filed objections are titled “Motion to Alter or Amend Judgment” but are directed to the Report and Recommendation and not an order or judgment entered by this Court. Accordingly, the Court treats this motion as Lowery’s objections to the Report.

In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections. . . . The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the Report and Recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F.Supp. 137, 138 (D.S.C. 1992) (citations omitted). In light of this standard, the Court has carefully reviewed the Report and the objections thereto. The Court elects to accept the Report.

Therefore, for the reasons articulated by the Magistrate Judge, it is hereby **ORDERED** that the Magistrate Judge's Report and Recommendation is **ACCEPTED** (Doc. #7) and the complaint is dismissed without prejudice.

IT IS SO ORDERED.

S/ Terry L. Wooten

Terry L. Wooten
United States District Judge

December 18, 2006
Florence, South Carolina